

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSE JUSTO,

PLAINTIFF,

COMPLAINT

-AGAINST-

18-CV-5526

NASSAU COUNTY, POLICE OFFICER JOHN DOE 1,
and POLICE OFFICER JOHN DOE 2, individually and in
their capacity as members of the Nassau County Police
Department,

DEFENDANTS.

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PRELIMINARY STATEMENT

1. This is a civil action in which Plaintiff, Mr. Jose Justo (“Mr. Justo”), seeks relief for the violation of his rights secured by 42 USC 1983, the Fourth and Fourteenth Amendments to the United States Constitution.
2. The claims arise from an incident on or about July 4, 2018, in which officers of the Nassau County Police Department, acting under color of state law, intentionally and willfully subjected Mr. Justo to excessive use of force.
3. Plaintiff seeks monetary damages (special, compensatory and punitive) against Defendants and an award of costs and attorneys’ fees, and such other and further relief as the Court deems just and proper.

JURISDICTION

4. This action is brought pursuant to 28 USC 1331, 42 USC 1983, and the Fourth and Fourteenth Amendments to the United States Constitution.
5. Venue is laid within the United States District Court for the Eastern District of New York in that the events giving rise to the claim occurred within the boundaries of the Eastern District of New York.

PARTIES

6. Plaintiff, Mr. Jose Justo, is a United States citizen and at all times here relevant resided at 382 Pennsylvania Avenue, Mineola, NY 11501.
7. Police Officer John Doe 1 (“PO John Doe 1”) and Police Officer John Doe 2 (“PO John Doe 2”) at all times here relevant were members of Nassau County Police Department.
8. Nassau County is a municipal corporation organized under the laws of the State of New York.
9. At all times mentioned, Defendants were acting under color of state law.

FACTUAL ALLEGATIONS

10. Mr. Justo is 56 years old and works for a paper distribution company.
11. On or about July 4, 2018, Mr. Justo was at home at 382 Pennsylvania Avenue, Mineola.
12. At approximately 8:30 pm, Mr. Justo was with his brother and brother-in-law on the deck at the back of his house.

13. Several police officers, including PO John Doe 1 and PO John Doe 2, arrived at Mr. Justo's home.
14. Upon information and belief, the officers had been called following an argument between Mr. Justo and his wife that had taken place earlier that day.
15. PO John Doe 1 grabbed Mr. Justo from his seat and threw him onto the deck.
16. At no time did Mr. Justo resist arrest or fail to comply with any officer's orders.
17. As Mr. Justo lay face down on the deck, defenseless, PO John Doe 2 forcefully kned Mr. Justo in his ribs.
18. Mr. Justo was handcuffed behind his back and taken to the police precinct in Mineola where he was detained overnight.
19. The next day, Mr. Justo complained of pain on the left side of his torso.
20. Mr. Justo was taken by police car to Nassau University Medical Center.
21. X-rays taken at Nassau University Medical Center showed that Mr. Justo had suffered two fractured ribs on his left side.
22. Mr. Justo was treated and prescribed painkillers.
23. Mr. Justo was then taken back to the precinct and charged.
24. All charges against Mr. Justo were subsequently dismissed.

FIRST CAUSE OF ACTION

(42 USC 1983 – Excessive Use of Force)

25. Plaintiff repeats and realleges each of the preceding allegations of this Complaint as if fully set forth herein.

26. Defendants have deprived Plaintiff of his civil, constitutional and statutory rights under color of law and are liable to Plaintiff under 42 USC 1983.

27. Defendants have deprived Plaintiff of his right to be free of unreasonable searches and seizures, pursuant to the Fourth and Fourteenth Amendments to the United States Constitution, in that Defendants used excessive and unreasonable force in effecting the arrest of Plaintiff.

28. Plaintiff has been damaged as a result of Defendants' actions in an amount believed to equal or exceed the jurisdictional limit of this Court.

JURY DEMAND

29. Plaintiff demands a trial by jury.

WHEREFORE, Plaintiff respectfully requests that the court enter a Judgment against Defendants together with costs and disbursements as follows:

In favor of Plaintiff in an amount to be determined by a jury, but at least equal or exceeding the jurisdictional limit of this Court for each of Plaintiff's causes of action;

Awarding Plaintiff punitive damages in an amount to be determined by a jury;

Awarding Plaintiff reasonable attorneys' fees, costs and disbursements of this action; And such other and further relief as the Court deems just and proper.

Dated: New York, New York
October 2, 2018

By:

/s/
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